

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHN HENRY MCMURRY,

Plaintiff,

Case No. 1:07-cv-716

v.

Hon. Janet T. Neff

PATRICIA CARUSO, et al.,

Defendants.

**ORDER APPROVING REPORT AND RECOMMENDATION**

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C).

**THEREFORE, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge, filed December 10, 2008, is approved and adopted as the opinion of the court.

**IT IS FURTHER ORDERED** that Defendants' Motion for Summary Judgment Due to Lack of Exhaustion (Dkt. 39) is **DENIED**.

**IT IS FURTHER ORDERED** that Defendant Malone's Motion for Summary Judgment Due to Lack of Exhaustion (Dkt. 50) is **DENIED**.

Dated: December 30, 2008

/s/Janet T. Neff

JANET T. NEFF

UNITED STATES DISTRICT JUDGE